

**MINUTES OF THE YORKTOWN ZONING BOARD OF APPEALS
APRIL 27TH, 2023**

The regular monthly meeting was held for the Zoning Board of Appeals, Town of Yorktown, at the Yorktown Town Hall, 363 Underhill Avenue, Yorktown Heights, New York, April 27th, 2023. The meeting began at 6:30 p.m.

The following members of the board were present:

William Gregory
Gordon Fine
Robert Fahey
John Meisterich

Also present is Steven Fraietta, Assistant Building Inspector, and Nisreen Khoury. The meeting was aired on Channel 20 Cablevision and Channel 33 Verizon Fios.

It was announced that the next public hearing would be held May 25th, 2023, site visits are scheduled for May 20th, 2023. Mailings are to be sent from May 1st to May 10th, 2023.

NEW BUSINESS

GELBMAN #11/23 This is an application for a special use permit for an accessory apartment.
Property Address:
1881 Morningview Dr
Section 48.09, Block 1 Lot 26

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item was scheduled for a Public Hearing on May 25th, 2023, Site Visit on May 20th, 2023, and referred to the Building Department.

STEVENSON #12/23 This is an application for an addition that will require variances for a front yard setback of 32.99 ft where 40 ft is required and a side yard variance (corner lot) of 26.31 ft where 40 ft is required as per section 300-21 and Appendix A of the Town Zoning Code.
Property Address:
2801 Crescent Dr
Section: 26.15 Block: 2 Lot: 7

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item was scheduled for a Public Hearing on May 25th, 2023, Site Visit on May 20th, 2023, and referred to the Building Department.

CICERO #13/23 This is an application for an addition to the rear of an existing non-conforming structure that requires a variance for a front yard setback of 8.3 ft where 75 ft is required and lot area of 38,369.68 sq ft where 200,000 sq ft is required, as per section 300-21 and Appendix A of the Town Zoning Code.
Property Address:
1575 Journeys End Rd
Section: 69.10 Block: 1 Lot: 15

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item was scheduled for a Public Hearing on May 25th, 2023, Site Visit on May 20th, 2023, and referred to the Building Department.

GUZMAN #14/23 This is an application for a special use permit for an accessory apartment.
Property Address:
395 Hallocks Mill Rd

Section 37.10, Block 1 Lot 36

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item will be handled administratively.

PALMIOTTO #15/23 This is an application to allow construction of a 2nd story addition that will require variances for: a front yard setback of 17'9" ft where 30 ft is required and a side yard variance of 7'9" ft where 12 ft is required. A total of 2 sides of 19'6" ft where 24 ft is required and a non-conforming lot of 7,580 sq. ft. where 20,000 sq. ft as per section 300-21 and Appendix A of the Town Zoning Code. A previous variance (#65/94) was granted.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item was scheduled for a Public Hearing on May 25th, 2023, Site Visit on May 20th, 2023, and referred to the Building Department.

YORKTOWN 6N- HOLDINGS, LLC #16/23 This is an application to construct (4) two story, three bedroom townhouses on 0.52 acres that will require variances for floor area ratio of 0.27, a front yard setback of 25 f, a side yard setback of 23' 11", a rear yard setback of 25 ft and building separation of 72'1".

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item was scheduled for a Public Hearing on May 25th, 2023, Site Visit on May 20th, 2023, and referred to the Building Department and Planning Board.

FALCONE #17/23 This is an application to reconstruct an existing multi family dwelling that has been approved by a variance dated July 29, 1976 for 3 dwelling units, where the applicant is requesting 4 dwelling units. This application will require a front yard variance of 22 ft where 40 ft is required, as per section 300-21 and Appendix A of the Town Zoning Code.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item was scheduled for a Public Hearing on May 25th, 2023, Site Visit on May 20th, 2023, and referred to the Building Department.

CONTINUED PUBLIC HEARINGS

CARVALHO #44/20 This is an application to subdivide a lot creating 2 lots under the required 10,000s.f. where a minimum of 20,000 s.f. is required. This property is located in a R1-10 zone.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item is adjourned as requested.

GRACE #45/20 This is an application to allow a caretaker's cottage as per 300-47 of the Town Code. This property is in a R1-80 zone.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item is adjourned as requested.

ELEZAJ #39/22 This is an application to legalize three (3) accessory apartments in a single-family home with an existing non-conforming cottage making the total of four (4) dwelling units in a single-family district.
Property Address:
1658 Amazon Rd.
Section 25.12, Block 2, Lot 32
Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item is adjourned as requested.

ELEZAJ #40/22 This is an application to allow two (2) primary structures on a lot where one (1) is permitted as per section 300-21C(1)(a)[1], to allow a combined floor area of 3 accessory apartments of 1835 square feet where 800 square feet accessory apartment is permitted as per section 300-38B(5), to allow usage of property that is not owner occupied as per section 300-38B(8), and to allow four (4) accessory apartments where one (1) is permitted in a R1-40 zone as per section 300-38B(9).
Property Address:
1658 Amazon Rd.
Section 25.12, Block 2, Lot 32
Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item is adjourned as requested.

O'DONNELL #51/22 This is an application to allow a 6'6" fence located in the front yard where 4'5" is permitted as per section 300-13F and Appendix A of the Town Zoning Code.
Property Address:
1405 Turus Ln.
Section 16.17, Block 1, Lot 48
Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item is adjourned as requested.

PERSICHETTI #9/23 This is an application for a renewal of a special use permit for an accessory apartment.
Property Address:
1344 Edcris Rd
Section 36.10, Block 2 Lot 34
Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, this item is adjourned as requested.

NEW PUBLIC HEARING

SAVASTANO #8/23 This is an application for a non-conforming structure that requires the following variances: Building coverage of 12.66% where 10% is allowed; width at main building of 100 ft where 200 ft is req; Depth at main building of 100 ft where 200 ft is req; Road frontage of 100 ft where 200 ft is req; Front yard setback of 10 ft where 75 ft is req; Rear yard setback of 32 ft where 75 ft is req; Side yard setback of 14.9 ft where 30 ft is req; and Total of two sides setback of 64.9 ft where 80 ft is req. For Garage: front setback if 60 ft where 75 ft is req; and building height of 18 ft where 15 ft is req. This property is non-conforming with a lot area of 15,000 sq. ft where 80,000 sq. feet is req as per section 300-21 and Appendix A of the Town Zoning Ordinance.

Mailings and sign certification in order.

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Frank Savastano present for the meeting.

Chairman Fine asked the applicant to explain how this application differs from the last application in September.

Mr. Savastano said they did not apply for all the setbacks. We want to make sure that all the setbacks are on here. It differs by the left side structure, it is going to be an addition, 9x19 I believe. Chairman Fine said we did a decision October 28, 2022 "The Board granted the application for a raised 2nd story of a non-conforming structure with a front yard setback of 22ft where 75ft is required and a lot area of 15,000 sq ft, where 80,000 sq. ft. is required". Is that included in this application as well or is this in addition to that.

Mr. Savastano said this is going to be a whole new application.

Chairman Fine said is the previous application incorporated into this or you are just adding on to the old application.

Mr. Savastano said it is the same.

Mr. Fahey said everything is the same except what you want to add.

Chairman Fine asked the Assistant Building Inspector, Steven Fraietta for clarification.

Mr. Fraietta said this application is much bigger than the original one, there is a wing going on to the left side, there is a garage added to it, and I believe there was an error with the front yard setback.

This whole thing just corrects it.

Chairman Fine said this application does not mention the second story, the first one did.

Mr. Fraietta said correct, but they are adding the same second story on this application.

Chairman Fine said so do these setbacks include that second story addition.

Mr. Fraietta said the previous one, no it did not, it was only for the front yard setback for the first one, which was an error.

Chairman Fine said so this is going to override that decision.

Memo from the Assistant Building Inspector, dated April 24, 2023 states:

I inspected this property on April 24, 2023 and have no objections to granting relief requested. This application will require a building permit and a CO.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, motion to amend the October, 2022 decision of the Zoning Board of Appeal and add to it that the application for a non-conforming structure that requires a building coverage of 12.66% where 10% is allowed; width at main building of 100 ft where 200 ft is required; Depth at main building of 100 ft where 200 ft is required; Road frontage of 100 ft where 200 ft is required; Front yard setback of 10 ft where 75 ft is required; Rear yard setback of 32 ft where 75 ft is required; Side yard setback of 14.9 ft where 30 ft is required; and total of two sides setback of 64.9 ft where 80 ft is required and for garage with a front setback if 60 ft where 75 ft is required; and building height of 18 ft where 15 ft is required on a non-conforming with a lot area of 15,000 sq. ft where 80,000 sq. feet is required, be granted and hereby amends the October 28, 2022 decision of the Zoning Board of Appeal.

URBAN

#10/23

Property Address:

621 Rachel Drive

Section 16.20, Block 1 Lot 46

Mailings and sign certification in order.

Christopher Urban present.

Mr. Urban said we want to add a fence in the back, it is an 8ft. fence for privacy, our neighbor can

see directly into our house, so we want a little bit of privacy and also to keep some of the deer out. Memo from the Assistant Building Inspector, dated April 24, 2023 states:

I inspected this property on April 24, 2023 and the fence is would be located in a drainage easement reserved by the Town of Yorktown. I have no objections to this application as long as the Town of Yorktown Highway Department does have any objections.

The Board discussed the application and applied the statutory factors.

Upon motion by Fine, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, Fine, and Meisterich, the application for a variance was granted to allow construction of an 8 ft fence in the rear yard where 6' 6" is the maximum height permitted as per 300-14F and Appendix A of the Town Zoning Code, with the stipulation it pertains only to the requested variance and not the remainder of the property line, and subject to the Town easement, and that if the fence ever has to be taken down to access or fix that easement it is going to be at the applicants' expense to take down the fence and reconstruct it, it is also subject to any decision of the Engineering and Highway Departments in regard to the placement of the fence.

SERINO #93/85 This is an application for a special use permit to establish a two-family residence.
Property Address:
2829 Crompond Rd
Section: 26.20 Block: 2 Lot:3

Gordon Fine recused.

Chairman Meisterich said this is an application for a special use permit to establish a two family residence. However, in reviewing the documentation and the record associated with this property, it seems that the applicant did apply for the special use permit in 1985 and subsequently the Zoning Board of Appeals at that point in time denied the application. The applicant then exercise his right to take it to the Supreme Court and the Supreme Court reverse the Yorktown Zoning Board of Appeals decision. Without reading all these decisions because it is quite long, the very end of the Supreme Court decision says, "the Respondents are directed to issue a special use permit for the conversion of the subject premises to a two family dwelling, subject to such reasonable conditions as the Respondent Board may impose". It is dated August 13, 1986.

So the reason that we are here today is that no body actually rendered the special use permit. The decision was made by the Court, the Zoning Board of Appeals did not follow-up and says now we issue the official permit.

Memo from the Assistant Building Inspector, dated April 21, 2023 states:

I conducted an inspection at 2829 Crompond Rd on March 23, 2023. In my inspection I found a two family residence with an apartment on the 1st floor and another apartment on the 2nd floor. The first floor apartment appeared to be built many years ago with low ceilings that would not meet today's building codes. For any renovations for this apartment requiring a building permit, the owner will have to bring it up to today's building code standards. The 2nd floor apartment was in need of minor repairs but generally in good condition.

Chairman Meisterich said that pertains to I guess future work on the first floor.

Upon motion by Meisterich, seconded by Fahey and unanimously voted in favor by Gregory, Fahey, and Meisterich, the application for a special use permit was granted to establish a two family residence for 2829 Crompond Road, and that the residence is what it exist here today. Will also note the Assistant Building Inspector memo about future renovations potentials needs to be legalize with the ceiling height.

Meeting adjourned at 7:05pm
Happy Zoning!